

The opportunities for reducing the burden of property tax

FAO companies' CEOs, tax experts and employees of legal departments

Pepeliaev Group advises that the Russian Supreme Court has handed down a decision on whether property should be classified as movable or immovable, and on how such property is to be taxed.

Facts of the dispute

On 10 October 2024, the Russian Supreme Court's Judicial Board for Economic Disputes examined a dispute between the Joint Venture Arkaim LLC and Inter-District Inspectorate No. 5 of the Federal Tax Service for Khabarovsk Territory (case No. A73-513/2023).

The taxpayer excluded from its corporate profit tax base technological equipment and transformer substations, classifying them as movable property based on an expert opinion.

The tax inspectorate challenged this decision, stating that the disputed property is immovable because it forms part of a unified production and technological complex and cannot be moved without its functional integrity being damaged.

The first instance court supported the taxpayer but the courts of appeal and cassation upheld the position of the tax service.

The position of the Russian Supreme Court

The Supreme Court overruled the decisions of the court of appeal and court of cassation, and upheld the decision of the first instance court.

The court referred to the following key points:

- That movable property is exempt from taxation under the law is aimed at stimulating investments in the modernisation of production capacities. Consequently, the terms and conditions of taxation must be predictable for taxpayers.
- Only those items must be taxed that are immovable based on their natural properties or by virtue of the law.

- It is irrelevant for taxation purposes that the property is a part of a unified technological complex; this is important only for civil relationships.
- The classification of properties as taxable items is based on accounting rules, including on whether individual items are recognised as standalone fixed assets.

Based on the above the court drew a very important conclusion:

“Assets that a taxpayer has lawfully booked as independent inventory items of movable property (machines and equipment), including those that are not parts of buildings and structures or are parts of buildings and structures but are not booked as parts of a complex of structurally linked items (requiring a periodical update by virtue of having a substantially lower expected service life as compared with the useful life of the entire building or structure and/or not contributing considerably to the value of the entire complex), are not subject to corporate property tax”.

What to think about and what to do

This decision is important for taxpayers, because it confirms and enhances the previous approaches of the Supreme Court with respect to the classification of property.

Companies must carefully assess their tax policy with respect to how they classify property, given that the relevant case law is likely to change.

Help from your adviser

The lawyers from Pepeliaev Group have a considerable experience in whether property should be classified as movable or immovable. We can therefore assert that, taking account of the adjusted position of the Supreme Court, there is every opportunity to reduce the tax burden of a company.

We will be happy to provide professional support to you in determining the correct classification of property under tax law. We will develop the legal position and ensure that your company's interests have legal protection at all stages of the relationship with the tax authority.

Contact details



Sergey Savseris
Senior Partner

Phone: +7 (495) 767
00 07
s.savseris@pgplaw.ru